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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,490	12/30/2004	Eiichi Kameda	2004-2018A	5405
513	7590	06/02/2006	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P.			BLACKWELL RUDASIL, GWENDOLYN A	
2033 K STREET N. W.			ART UNIT	
SUITE 800			PAPER NUMBER	
WASHINGTON, DC 20006-1021			1775	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/519,490

Applicant(s)

KAMEDA, EIICHI

Examiner

Gwendolyn Blackwell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### **Examiner's Comment**

1. Applicant has set forth in claim 1, line 5 that the multilayer film is provided with a "sharpness prevention means for providing an inflection point...". The means for language in claim one, it's modification by functional language, and there being no further modification of the structure, material or acts for achieving the specified function require the use of 35 USC 112, paragraph 6 to be applied to the claim limitation.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

*The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.*

3. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01.

The omitted elements are: the change wavelength band. Which band of the spectrum is the change wavelength band? How is one skilled supposed to know where the inflection point is without knowing the particular wavelength band. Clarification is required.

4. Claims rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

### ***Claim Objections***

5. Claim 2 is objected to because of the following informalities:

Claim 2 , line 6 recites the limitation "...layers have a thickness from that of each other,..". There seems to be a word missing between "thickness" and "from". To further prosecution, the missing word will looked as "different" as it seems that the thicknesses of the layers are further defined in the claim to be different. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

*(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.*

*(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

7. Claims 1-2, 4, 6, 7, 9, 12, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent no. 5,644,124, Hamada et al.

#### ***Regarding claim 1***

Hamada et al disclose a multilayered filter (ray cut filter) formed on a light receiving substrate (transparent plate) comprised of alternating layers of high and low refractive index materials, (column 3, lines 4-57). As the layer structure of Hamada et al is the same as that set forth in pending claim 1, the limitations of the multilayer film providing a sharpness prevention means is present in the prior art. Absent an evidentiary showing to the contrary, the addition of

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the physical limitations does not provide a patentable distinction over the prior art of record, meeting the limitations of claim 1.

*Regarding claims 2, 4, 6, 7, 9, 12, 14, and 16*

Figure 3 demonstrates that the optical thickness of the high and low refractive index layer increases from the substrate and up through the multilayered stack, (column 7, lines 43-65), meeting the limitations of claims 2, 6, 9.

Figure 3 also demonstrates separate sections of the multilayered stack wherein the upper two groupings are layers 2 and 3 and the lower grouping is layer 1, meeting the limitations of claim 4.

Between the substrate and the multilayer stack, a matching layer C (adjustment layer) is formed, (Figure 3), meeting the limitations of claims 7, 12, 14, 16.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

9. Claims 3, 8, 11, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent no. 5,644,124, Hamada et al as applied to claims 1 and 2 above.

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*Regarding claim 3*

The limitations of claims 1 and 2 have been set forth above. Hamada et al does not specifically disclose that the first and third layers have substantially the same optical film thickness and the other layer is the second layer.

While Hamada et al does not specifically disclose the layer thickness limitation as set forth in claim 3, Hamada et al does disclose that high and low refractive index films have optical film thicknesses that form arithmetic series and that the arithmetic series of one type is different from an arithmetic series of another type with the layers corresponding to the arithmetic series having different transmission bands. As it is the thickness of the layer in the arithmetic series which determines the transmission bands, it would be obvious to one skilled in the art at the time of invention to modify the thickness of the layers through routine experimentation in order to determine the spectral sensitivity of the photodetector in the desired wavelength band, (column 4, lines 54-65), claim 3.

*Regarding claims 8, 11, and 15*

Figure 3 demonstrates that the optical thickness of the high and low refractive index layer increases from the substrate and up through the multilayered stack, (column 7, lines 43-65), claim 8.

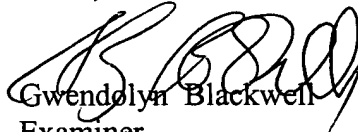
Between the substrate and the multilayer stack, a matching layer C (adjustment layer) is formed, (Figure 3), claims 11 and 15.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Blackwell whose telephone number is (571) 272-1533. The examiner can normally be reached on Monday - Thursday; 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil can be reached on (571) 272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Gwendolyn Blackwell  
Examiner  
Art Unit 1775

gab